IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPLICATION NO.5867 OF 2005

Smt.Shubhangi Sadanand Ayare & Anr. ...Applicants
vs.
The State of Maharashtra ...Respondent

Mr.Prakash Naik for the Applicants
Mr.R.Y.Mirza,A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 13,2005

P.C.:

1. Heard Advocate for the Applicants and the learned A.P.P. for State. The offence registered against the Applicant and co-accused is punishable under Section 302 and Section 304-B read with section 34 of I.P.C.

2. The Advocate for the Applicants submitted that the prosecution is not yet sure whether Section 302 is attracted or section 304-B of I.P.C. is attracted. He submitted that statements of various witnesses have been already recorded. Hence, custodial interrogation of the Applicants is not required. He submitted that though a note written by the deceased is found, the prosecution has not taken steps for getting the opinion of the hand writing expert and the prosecution is relying upon mere denial of the handwriting of the deceased by her mother. He submitted that the age of the Applicant No.1 is 56 years. He submitted that the Applicants are entitled to the relief.

3. The learned A.P.P. opposed the application by pointing out the material collected during the course of investigation. The learned A.P.P. submitted that looking to the gravity of offence, no case is made out for grant of anticipatory bail.

4. I have considered the submissions. Investigation is still in progress. The statements of the witnesses recorded by the police show that there was a demand for dowry by the husband of the deceased and the Applicant No.1. A specific allegation to that effect is made by the number of witnesses. In so far as Applicant No.2 is concerned, there is no allegation that she demanded dowry. A very general allegation has been made against the Applicant No.2.

5. Considering the gravity of the allegations against the Applicant No.1, when investigation is in progress, it cannot be said that custodial interrogation of the Applicant No.1 is not necessary. So far as the Applicant No.2 is concerned, there appears to be only a general allegation. The material collected during the investigation also does not show that custodial interrogation of the Applicant No.2 is required. The Applicant No.2 is the sister of the husband of the deceased.

6. Hence I pass the following order :

i) Application of Applicant No.1-Smt.Shubhangi Sadanand Ayare is rejected.

ii) In the event of the arrest of the Applicant No.2-Kum. Surekha Sadanand Ayare in connection with C.R.No.I-286 of 2005 registered with Panvel Town Police Station, the said Applicant shall be enlarged on bail subject to furnishing P.R.Bond in the sum of Rs.10,000/-(Rupees ten thousand only) with one or two local sureties in the like amount.

iii) The Bail is granted subject to condition that the Applicant No.2-Kum.Surekha Ayare will attend the concerned Police Station as and when called upon to do so till filing of the charge sheet and will cooperate for the purposes of investigation.

iv) The Bail is granted subject to condition that the Applicant No.2 shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of accusation against him so as to dissuade him from disclosing such facts to the Court or to the Police Officer/investigating agency. The Applicant No.2 shall not tamper with the prosecution evidence.

v) Any observation made in this order shall not be construed as any finding or any expression of opinion on the merits of

the case at the time of trial.

vi) This order will enure to the benefit of the Applicant No.2 only till charge sheet is filed. Thereafter, she will be free to apply to the appropriate Court for appropriate relief.

vii) Application is disposed of in above terms.

. At this stage, on the request made by the Advocate for the Applicants time is granted to the Applicant No.1 till 19th September 2005 to surrender before the Investigating Officer.

. Parties to act upon an authenticated copy of this order.

JUDGE